

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-326-C – ORDER NO. 2010-____
MARCH __, 2010

IN RE:)	
)	
)	
State Universal Service Support of Basic)	ORDER ON UNIVERSAL SERVICE
Local Service Included in a Bundled)	SUPPORT FOR BASIC LOCAL SERVICE
Service Offering or Contract Offering)	IN DEREGULATED SERVICE OFFERINGS
)	
)	

1. PROCEDURAL BACKGROUND

On May 28, 2009, the Office of Regulatory Staff (“ORS”) filed a request with the Public Service Commission of South Carolina (“Commission”) asking the Commission to address the issue of whether access lines providing local voice service in a bundle or contract offering should receive support from the South Carolina Universal Service Fund (“SC USF”).¹ The letter also requested that the issue be addressed separately and prior to any other pending issues in the SC USF proceeding, *In re: Proceeding to Establish Guidelines for an Intrastate Universal Service Fund*, Docket No. 1997-239-C.

The Commission appointed F. David Butler as Hearing Officer and subsequently scheduled a status conference on July 6, 2009. As a result of the status conference, a new docket was established solely for the purpose of having the Commission examine the issue of whether access lines providing local service should receive SC USF support when the access line is

¹ The South Carolina Telephone Coalition and the South Carolina Cable Television Association concurred with the request.

included in a bundled service offering or contract offering. The Commission issued a Notice of Filing and Hearing in the new Commission Docket No. 2009-326-C. A public hearing was held on November 20, 2009, in the Commission's hearing room. The Honorable John E. "Butch" Howard, Vice Chairman, presided.

During the hearing, Scott Elliott and Susan S. Masterton, *pro hac vice*, represented United Telephone of the Carolinas, dba CenturyLink ("CenturyLink"). CenturyLink presented the testimony of Ann C. Prockish, Senior Manager of Regulatory Operations.

Burnet R. Maybank, III and Bruce Hurlbut, *pro hac vice*, represented Windstream South Carolina, LLC ("Windstream"). Windstream presented the testimony of William F. Kruetz, Director Regulatory Strategy of Windstream Communications, Inc.

M. John Bowen, Margaret M. Fox, and Thomas J. Navin, *pro hac vice*, represented the Coalition. The Coalition presented the testimony of Glenn H. Brown, President of McLean & Brown, and H. Keith Oliver, Senior Vice President of Corporate Operations of Home Telephone Co., Inc.

Frank R. Ellerbe, III, represented the South Carolina Cable Television Association ("SCCTA"), Competitive Carriers of the South ("CompSouth"), and tw telecom of south carolina, llc ("tw telecom"). John J. Pringle, Jr. represented NuVox Communications, Inc. ("NuVox"). The SCCTA, CompSouth, tw telecom and Nuvox are collectively referred to as "CLECs." Mr. Pringle also represented Sprint Nextel Corp. and Sprint Communications Co., LP (collectively "Sprint"). The CLECs presented the testimony of Joseph Gillan, an economic consultant. Sprint presented no witnesses.

ORS was represented by Nanette S. Edwards and Courtney Edwards. ORS presented the testimony of Dawn M. Hipp, ORS Director of Telecommunications, Transportation, Water and

Wastewater.

Patrick W. Turner represented BellSouth Telecommunications, Inc., dba AT&T South Carolina (“AT&T”). Steven W. Hamm represented Verizon Communications, Inc. and Verizon South, Inc. (collectively “Verizon”). AT&T and Verizon presented no witnesses.

2. SUMMARY OF TESTIMONY

ANN C. PROCKISH

Ann. C. Prockish testified on behalf of CenturyLink. Ms. Prockish testified that access lines included as part of a bundled or contract offering should continue to receive SC USF support. She stated that an access line that is included as part of a bundled or contract offering is basic local exchange service as defined by the Commission and that the cost of providing service over that access line is fixed, regardless of whether it is provisioned as a stand-alone service or as part of a bundle or contract offering. (Tr. 18). Ms. Prockish also testified that the obligations of carriers of last resort and SC USF support go hand in hand. (Tr. 38).

WILLIAM F. KREUTZ

Windstream presented the testimony of William F. Kreutz. Windstream’s position is that basic local service included as part of a bundled service offering or contract offering should receive SC USF support. He testified that the CLECs’ position ignores the Commission’s past guidelines and proposes a change that is inconsistent with the Federal Communications Commission’s (“FCC”) Federal Universal Service Fund (“USF”) procedures. (Tr. 107-108). He also testified that the CLECs’ position is contrary to public interest because consumers receive a value from purchasing bundled services. If support is eliminated, it could change the company’s decision to offer certain bundled service offerings in areas that receive support. (Tr. 113).

GLENN H. BROWN

The Coalition presented the testimony of Glenn H. Brown who testified that the offering of bundles or contract services should not restrict the ability of Carriers of Last Resort (“COLRs”) to receive state high-cost USF support. He also testified that eliminating high-cost support to COLRs who offer bundles or contract would harm consumers in the higher-cost rural areas who rely on this funding to receive affordable basic telecommunications services. (Tr. 157-158).

JOSEPH GILLAN

The CLECs presented the testimony of Joseph Gillan, an economist with a consulting practice specializing in telecommunications. (Tr. 218). Mr. Gillan explained why the Commission should clarify its Guidelines to indicate that lines sold as parts of unregulated bundles and contract offerings cannot receive support from the SC USF. He described the key statutory provisions at issue in this proceeding. He testified that it was never a goal of universal service to subsidize every local subscriber or every service that a subscriber would desire. Mr. Gillan testified that the USF was never intended to provide subsidies for unregulated services that companies can price at market rates. (Tr. 220-222). He testified that the statute only contemplates a subsidy for regulated basic services where there is a maximum allowable rate. (Tr. 234). Mr. Gillan also described the problems with subsidizing deregulated services. (Tr. 224).

H. KEITH OLIVER

The Coalition also presented the testimony of Keith Oliver who testified that COLRs should receive SC USF support for local exchange service lines provided as part of bundles or contract offerings. Mr. Oliver’s justifications for including deregulated bundles in the SC USF

were because (1) it is consistent with the way the SC and Federal USF's are currently administered, (2) it furthers universal service policy, and (3) it is in the public interest. (Tr. 274). He testified that without the State subsidy there would be a possible reduction in the number of bundles offered to rural consumers. (Tr. 295). Oliver also testified that bundling was a marketing issue and a matter of being able to meet competitive pricing. (Tr. 339).

DAWN M. HIPPI

ORS presented the testimony of Dawn M. Hipp who testified about ORS' administration of the daily operations of the SC USF. ORS' position is that basic local telecommunications service included in a bundle or contract service offering should receive SC USF support. (Tr. 346-348). Ms. Hipp testified that since ORS took over the administration of the fund in 2005, the agency has used the same methodology to calculate USF support as used by the Commission Staff prior to the 2005 enactment of the statute deregulating bundles and contract services. (Tr. 367-368). Ms. Hipp explained that the Commission and ORS have no jurisdiction over rates, terms and conditions in regard to bundles under S.C. Code Section 58-9-285. (Tr. 370-371). In addition, she indicated that the large majority of the ILECs are alternatively regulated so that neither the Commission nor ORS has the authority to review their earnings. (Tr. 389-390).

3. MOTION – BURDEN OF PROOF

Mr. Elliott moved at the beginning of the proceeding to review the Hearing Officer's November 18, 2009, directive setting the order of witnesses for the hearing. The Hearing Officer's directive indicated that the testimony of the witnesses supporting USF funding for local exchange access lines contained in bundled and contract offerings was to be presented first (with the exception of the ORS witness), followed by the witness opposing funding. Mr. Elliott argued

that the CLECs had the burden of proof in the case and that their witness should be presented first. Windstream and the Coalition joined the motion. We denied the motion without making a determination on the issue of the burden of proof.

The Commission established Docket No. 1997-239-C as a generic proceeding to fulfill its statutory obligation to establish the SC USF as required by S.C. Code Ann. Section 58-9-280(E). As indicated in Order No. 2009-393, the present docket resulted from an agreement presented to and agreed to by the Senate Judiciary subcommittee during the deliberations on the Customer Choice and Technology Investment Act which became law on May 6, 2009. ORS requested that the Commission prioritize and address separately the issue of whether access lines in a bundle or contract offering should receive a subsidy from the SC USF.

Although we agreed to address this issue separately, the character of this issue comports with the other generic issues relating to the administration of the SC USF decided in Docket No. 1997-239-C. A decision on this matter affects all COLRs and all entities required to contribute to the SC USF. As part of a generic proceeding established by the Commission, no party has the burden of proof. In the early SC USF proceedings that affected all COLRs and entities required to contribute, the COLRs' testimony was presented first.² In later proceedings in Docket No. 1997-239-C proposing modifications to the SC USF and to update cost studies, all parties of record were instructed to file direct testimony on the same date which is consistent with the conclusion that no party has the burden of proof.³ The purpose of a generic proceeding at the Commission is to gather relevant information on an issue that has a far-reaching impact on a certain groups of utilities. In other generic proceedings, we have also required all parties to

² See *In re: Proceeding to Establish Guidelines for an Intrastate Universal Service Fund*, Docket No. 97-239-C, ("USF") Order Nos. 97-547, 97-726, 97-921, 1999-148, 2001-419.

³ See USF Notice of Prefiling Deadlines dated January 31, 2007, and May 23, 2008.

prefile their testimony at the same time since no party has a burden of proof.⁴

The SC USF Guidelines and Administrative Procedures were approved by the Commission on October 10, 2001, *USF* Order No. 2001-996. The General Assembly deregulated bundles and contract offerings in 2005. ORS petitioned the Commission requesting clarification on certain issues affecting administration of the USF on March 17, 2006. Responses to the petition were received from numerous parties to the docket including a petition from the South Carolina Cable Television Association (“SCCTA”) that raised several additional issues that also affect the administration of the USF including the issue of whether any COLRs are receiving USF support based on access lines sold as bundled services and whether such lines should be subsidized.

In 2007, the Commission issued a notice of hearing to address proposed modifications to the Guidelines. The Coalition filed a motion to dismiss and the CLECs responded requesting that the Commission move forward to address additional issues relating to the SC USF including the question of whether any COLRs are receiving SC USF support based on access lines that are part of bundles or contract offerings. CenturyLink contended that the CLECs had the burden of proof in the present hearing because the CLECs raised the issue about bundles. The fact that the CLECs raised the issue does not change the character of the issue itself or shift the burden of proof to any one party. We established this generic proceeding to address the impact of a change

⁴ See Docket No. 2004-316, Order No. 2005-343 *In re: Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law* dated June 20, 2005; Docket No. 2005-15-C, ORS letter to Commission dated March 1, 2005, (ORS requested that the Commission amend the prefiling dates to require all parties to prefile testimony on the same date. **“The present proceeding is a generic proceeding established by the Commission. As a generic proceeding, neither ORS nor any other party has the burden of proof.”**); and Notice of Prefiling Deadlines dated March 3, 2005, *Generic Proceeding Established Pursuant to Commission Order No. 2004-466 to Address the Appropriate Rate Classification for Telephone Lines located in Elevators and Close to Swimming Pools*; Docket No. 2005-191-E, Notice of Prefiling Deadlines dated July 12, 2005, *Generic Proceeding to Explore a Formal Request for Proposal Process for Utilities that are Considering Alternatives for Adding Generating Capacity*.

in the law that deregulated bundles and contract service offerings. The question of whether the SC USF Guidelines should be revised is a question of statutory interpretation and is a generic issue affecting all interested parties. Therefore, we conclude that the CLECs did not have the burden of proof in this proceeding.

4. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the testimony, exhibits, and the entire record of these proceedings, the Commission makes the following findings of fact and conclusions of law.

1. The Commission has a statutory obligation to establish a SC USF for distribution to COLRs.

In continuing South Carolina's commitment to universally available basic local exchange telephone service at affordable rates and to assist with the alignment of prices and/or cost recovery with costs, and consistent with applicable federal policies, the commission shall establish a universal service fund for distribution to a carrier(s) of last resort.

S.C. Code Ann. § 58-9-280(E)(Supp. 2009). As indicated in the statute, the purpose of the fund is to ensure that *basic local exchange telephone* service is available at affordable rates.

2. The definition of services that can be supported by the SC USF can only be expanded after a hearing specifically addressing that issue. S.C. Code § 58-9-280(E)(8) (Supp. 2009). The Commission has not previously held a hearing to address the specific issue of whether access lines sold as parts of deregulated bundles or contract offerings should receive USF support.

3. The Commission has complied with its statutory obligation by establishing the SC USF and by adopting Guidelines and Administrative Procedures to implement the fund. *See USF* Order Nos. 2001-419 & 2001-996.

4. The SC USF statute requires that the Guidelines address several specific items including the requirement that a service be held to a maximum allowable rate. The maximum rate is instrumental in determining both the size of the SC USF and the distributions from the fund.

- (4) The size of the USF shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the ***maximum amount it may charge for the services***. The commission may use estimates to establish the size of the USF on an annual basis, provided it establishes a mechanism for adjusting any inaccuracies in the estimates.
- (5) Monies in the USF shall be distributed to a carrier of last resort upon application and demonstration of the amount of the difference between ***its cost of providing basic local exchange services and the maximum amount it may charge for such services***.

S.C. Code Ann. § 58-9-280(E)(4) & (5) (Supp. 2009) (emphasis added).

5. “Basic local exchange service” is defined by statute and “means for residential and single-line business customers, access to basic voice grade local service with touchtone, access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or equivalent).” S.C. Code Ann. § 58-9-10(9) (Supp. 2009).

6. The Guidelines adopted by the Commission in 2001 include a definition of the term “basic local exchange telecommunications service” that is the same as the statutory definition. *See USF Order No. 2001-996, Exhibit A, p. 1.*

7. In 2005, bundles and contract offerings were deregulated. S.C. Code Ann. Section 58-9-285(B) (Supp. 2009) provides that the

Commission must not:

- (1) impose any requirements related to the terms, conditions, rates, or availability of any bundled offering or contract offering of any qualifying LEC or qualifying IXC that a customer accepts after the effective date of this act; or
- (2) otherwise regulate any bundled offering or contract offering of any qualifying LEC or qualifying IXC that a customer accepts after the effective date of this act....

The plain language of this section provides that the Commission has no jurisdiction over what rates can be charged for bundled or contract offerings. “When a statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed, and this court has no right to impose another meaning.”⁵ The statute is plain and unambiguous. The Commission must not impose any requirements related to the terms, conditions, rates, or availability or otherwise regulate any bundled or contract offering. The Commission is not allowed to impose a maximum rate or otherwise regulate any bundle or contract offering. Therefore, we conclude that the local exchange access line sold as part of a bundle or contract offering is not regulated or controlled by the Commission as a matter of law. To the extent that the bundle includes local exchange service, that service is unregulated and this Commission has no control over where it is offered or at what price.

8. The General Assembly also distinguished bundled offerings from “basic local exchange service” by definition. A “bundled offering” is “an offering of two or more products or services to customers at a single price provided that (1) the bundled offering must be advertised and sold as a bundled offering at rates, terms or conditions *that are different* than if the services are purchased separately from the LEC’s tariffed offerings.” S.C. Code § 58-9-285(A)(1)(a)(i) (Supp. 2009)(emphasis added). This statutory language is also plain and unambiguous. A

⁵ *Peake v. SC Dept. Motor Vehicles*, 375 S.C. 589, 654 S.E.2d 284, 289 (Ct. App. 2007).

bundled offering is different than a regulated, tariffed offering. Even if the function does not change, access lines included in deregulated bundles and contract service offerings are legally distinct by statute from “basic local exchange service.”

The COLRs and ORS contended that the access line component of bundled and contract offerings is “basic local exchange service” for SC USF purposes. (Tr. 29, 107, 274, 346-348). The evidence presented during the hearing confirms that there is no Commission-approved, tariffed, maximum rate for the local voice service provided as part of a bundle. (Tr. 134). Prior to deregulation bundled services were subject to the Commission’s regulation and priced pursuant to the tariffed terms on file. (Tr. 338). As discussed above any local service offering provided as part of a bundle or a contract must be different from the LEC’s tariffed offerings according to the plain language of S.C. Code Section 58-9-285(A)(1)(a)(i) (Supp. 2009).

Although ORS’ position is that the access line in a bundle is “basic local exchange service” for SC USF purposes, we disagree. When the plain language of a statute is contrary to an agency’s interpretation, the Commission may reject the agency’s interpretation.⁶ The plain meaning of the language provides a compelling reason to reject ORS’ interpretation.⁷

The evidence presented on how bundles are priced further supports the finding that the local access line component of a bundle is different from the regulated “basic local exchange service” with a maximum rate as required for the SC USF calculations. The COLRs testified that market forces and competition now dictate the prices of deregulated bundled and contract service offerings instead of a maximum tariff rate. (Tr. 39). A company can raise the price of a bundle at any time without seeking permission from the Commission. (Tr. 69-70, 83-84). Centurylink

⁶ *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 581 S.E.2d 836, 838 (Sup. Ct. 2003).

⁷ *Richland County School District 2 v S.C. Dept. of Education*, 335 SC 491, 517 S.E.2d 444, 448 (Ct. App. 1999).

witness Prockish testified that competition ensures that the end user does not overpay for bundled or contract services. (Tr. 39). Coalition Witness Oliver also testified that deregulation was a pricing or marketing issue and a matter of being able to meet competitive pricing. (Tr. 338-339). We agree with CLEC Witness Gillan that the SC USF was not intended to provide subsidies for unregulated services that can be priced at market rates. (Tr. 221). As indicated by the COLRs, competition determines the price for bundles and contract offerings. SC USF support is not needed or appropriate for market priced deregulated service offerings. Universal service support is only supposed to ensure that the rates for basic service remain affordable.

9. We also considered the effect that deregulation has on Commission oversight on this issue. The Guidelines were supposed to ensure that the SC USF was revenue neutral for COLRs. As we discussed in an earlier SC USF Order, “[t]he Commission has separate mechanisms in place to exercise regulatory oversight with respect to the operations and earnings of the companies it regulates, and will continue to utilize those methods.”⁸ ORS Witness Hipp testified that the large majority of COLRs are alternatively regulated so that neither the Commission nor ORS has the authority to review their earnings. (Tr. 389-390). The 2005 legislation deregulating bundles also changed the Commission’s oversight of bundles and contract offerings. (Tr. 370-371). The Commission has no mechanisms in place to exercise regulatory oversight when subsidies are provided for deregulated services by carriers who are alternatively regulated.

10. Another distinguishing characteristic between “basic local exchange service” and access lines included in bundles or contract offerings involves carrier of last resort obligations. COLRs are required to provide basic local exchange service to all residential and single-line

⁸ USF Order No. 2001-419, p. 42, § 23.

business customers within a defined service area. *See* S.C. Code Ann. § 58-9-10(10). COLRs are not required to provide bundled or contract service offerings to all customers within their service area. As Witness Oliver testified, the companies choose where to offer bundles and how much to charge for them. (Tr. 77, 134, 328). Therefore, we conclude that the access lines included in deregulated bundles and contract service offerings are legally distinct from “basic local exchange service” - and it is only “basic local exchange service” that is entitled to a subsidy from the SC USF.

11. COLRs argued that customers have always purchased basic local exchange service with other services which should result in maintaining the status quo in regard to the SC USF. (Tr. 291). This argument ignores the fact that bundled and contract service offerings were deregulated after the Guidelines and Administrative Procedures were implemented. (Tr. 83-85). Beginning in 2005, local access lines sold as parts of bundles or contract offerings were no longer “basic local exchange services” regulated by the Commission. The 2005 legislation meant that for local services sold as a part of a bundle or contract offering there is no maximum rate set and controlled by the Commission. As discussed above, the access lines included in deregulated service offerings are legally distinct from “basic local exchange service” entitled to a SC USF subsidy.

12. The COLRs contend that the status quo should be maintained because customers have always purchased basic local exchange service with other services without affecting the line’s eligibility status for the SC USF subsidy. The COLRs argue that the local access line in a bundle performs the same function as a tariffed basic local exchange access line regardless of whether it is part of bundle or contract offering. (Tr. 29, 107, 274). This argument ignores the fact that since the inception of the SC USF, other lines performing the same function have been

deemed ineligible for SC USF support. Multi-line business, PBX, and other access lines have never been eligible for SC USF support even though they provide access to basic voice-grade local service, touchtone capability, access to available emergency services, directory assistance, interconnecting carriers, relay services, operator services; and come with an annual local directory listing. These access lines that offer the same functionalities as the access line in a bundle are not eligible to receive SC USF support. (Tr. 64-66, 130-131). We are not persuaded that because the access line component in a bundle or contract offerings may include the same functionalities that it is the same as basic local exchange service for SC USF purposes. The SC USF has always limited support to eligible lines.⁹

13. The COLRs expressed several concerns about eliminating the subsidy for bundled and contract offerings. They testified that the elimination of the subsidy may affect whether COLRs would offer bundles and contract offerings in rural areas. (Tr. 113, 295). Services that are to be funded with the SC USF subsidy are services mandated by the FCC and South Carolina State law.¹⁰ The evidence presented illustrated that competitive market forces determine the price of these deregulated services that the COLRs' are voluntarily offering in select portions of the COLRs' service areas. (Tr. 39, 69-70, 83-84, 328). Bundled and contract service offerings are not mandated by federal or state law. We agree with the testimony of CLEC Witness Gillan that the SC USF was created to ensure the availability of basic local exchange service at affordable rates, not to assist in the commercial marketing objective of supplying voluntary bundled services. (Tr. 231-232).

14. The COLRs and ORS also contended that eliminating the subsidy for access lines sold as part of bundles and contract offerings would make the SC USF procedures inconsistent

⁹ USF Order No. 2001-996, Exhibit B at 3.

¹⁰ USF Order No. 97-753, p. 14.

with the Federal USF procedures. (Tr. 107-108, 274, 350, 362). We are not persuaded by their arguments. In fact, the FCC has not addressed the question of whether deregulated bundles should receive Federal USF support. The FCC Order cited by ORS actually held that the list of Federal USF supported services should not be expanded to include additional services including advanced or high-speed services, unlimited local usage, soft dial tone, prepaid calling plans, toll or expanded area service and others.¹¹ The FCC held that the public interest would not be served by expanding the list of supported services from the core supported services in place.¹² The FCC defined the “core” services to be supported by the Federal USF as follows:

single-party service; voice grade access to the public switched network; DTMF signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange services; access to directory assistance; and toll limitation services for qualifying low-income consumers.¹³

This definition of core services to be supported is almost identical to S.C. Code Section 58-9-10(9)’s definition of “basic local exchange service.” The FCC held that the current list of supported services strikes the right balance between ensuring the availability of fundamental telecommunications services to all Americans and maintaining a sustainable universal service fund.¹⁴ Therefore, we are not persuaded that discontinuing the subsidy to access lines included in bundles and contract service offerings would make the SC USF inconsistent with the Federal USF.

15. Under the current administration of the SC USF there is no mechanism for reducing the size of the SC USF based on deregulated lines that are no longer eligible for

¹¹ *Federal-State Joint Board on Universal Service*, Order & Order on Reconsideration, CC Docket No. 96-45, 18 FCC Rcd. 15090, 15090-15093 (July 14, 2003)(“FCC Reconsideration Order”).

¹² FCC Reconsideration Order, ¶ 7.

¹³ FCC Reconsideration Order, ¶ 5, *citing Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8809, ¶61 (1997)

¹⁴ FCC Reconsideration Order, ¶ 7.

support. The CLECs proposed revising the administration of the SC USF to eliminate support for bundles and contract offerings using the same method used for comparable, ineligible multi-line business service offerings. (Tr. 260).

The Guidelines and Administrative Procedures distinguish eligible from ineligible lines for USF support calculations. The amount of high cost support is to be calculated by multiplying the high cost support per line by the number of *eligible* access lines served by each COLR.¹⁵ The High Cost Support is based on the number of *eligible* residential and single-line business lines served by the COLR.¹⁶

We conclude that administration of the SC USF should be implemented in the following manner going forward. SC USF support should be calculated using the per-line support amount corresponding to the last support amount approved by the Commission. On an annual basis, ORS will calculate the amount of subsidy each COLR should receive by multiplying this fixed amount per-line times the number of eligible lines each company reports. Eligible lines will not include access lines that are sold as parts of bundles or contract offerings or multi-line business lines. The per-line amount of support should be held constant until this Commission approves changes as provided in the Guidelines and Administrative Procedures.¹⁷ This administrative change conforms the operation of the SC USF to the original mandate as outlined in the following Guidelines and Procedures and subsequent USF Orders:

¹⁵ Order No. 2001-996, Exhibit B-Administrative Procedures, p. 1.

¹⁶ Order No. 2001-996, Exhibit B-Administrative Procedures, p. 3.

¹⁷ USF Order No. 2001-996.

Guideline #9 for South Carolina Universal Service Fund¹⁸

The high cost support component is calculated on a per-line basis for residential and single line business service, then summed over all such lines in the designated SC USF support area.

And,

South Carolina Universal Service Fund Administrative Procedures

IV. Distributions from the SC USF to Eligible COLRs

- D. COLRs will receive High Cost Support based upon the number of eligible residential and single-line business lines served by such COLR in a Designated Service Area. The amount of High Cost Support is determined by multiplying the number of eligible lines by the per line support available for such lines in the designated support service area.¹⁹

USF Order Nos. 2003-215 and 2004-452 both indicated that “[o]nce the SC USF is calculated on a per-line basis, the amount of funding received by a particular company will track along with the gain or loss of access lines.”²⁰

We find and conclude that eliminating the access lines in bundles and contract offerings from inclusion in the calculation to determine distributions should be implemented on a going forward basis. As a result the amount of distribution for each COLR should be calculated by multiplying the number of eligible lines by the per-line support amount and adjusted on an annual basis.

IT IS THEREFORE ORDERED THAT:

1. The motion in regard to the burden of proof in this generic proceeding is disposed of as detailed herein.

¹⁸ USF Order No. 2001-996, Exhibit A, Guidelines, p. 6.

¹⁹ USF Order No. 2001-996, Exhibit B, Administrative Procedures, p. 3.

²⁰ USF Order No. 2003-215, p. 18, § 9 and USF Order No. 2004-452, p. 23, § 12.

2. Access lines sold as part of deregulated bundles and contract offerings are not included within the definition of “basic local exchange service” and therefore are not entitled to support from the South Carolina Universal Service Fund.

3. The Office of Regulatory Staff shall calculate distributions to COLRs on an annual basis excluding access lines sold as part of deregulated bundles and contract offerings as detailed herein.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Elizabeth B. Fleming, Chairman

ATTEST:

John E. Howard, Vice Chairman

(SEAL)